

## CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 360

**Citations Affected:** IC 5-10-8-7.7; IC 16-18-2-240.5; IC 16-40-3; IC 27-8-14.1-3; IC 27-8-14.1-4; IC 27-13-7-14.5.

**Synopsis:** Morbid obesity. Conference committee report for ESB 360. Removes language in the morbid obesity definition that refers to weight guidelines in the Metropolitan Life Insurance table. Specifies certain requirements for coverage for surgical treatment of morbid obesity under: (1) a state employee health plan; (2) an accident and sickness insurance policy; and (3) a health maintenance organization contract. Requires monitoring of patients and reporting of specified information by physicians to the state department of health. **(This conference committee report removes language requiring: (1) school boards to establish a coordinated school health advisory council; (2) the department of education to provide information concerning health, nutrition, and physical activity; (3) foods and beverages available for sale to students outside the federal school meal programs to meet certain requirements; and (4) daily physical activity for elementary school students in public schools.)**

**Effective:** July 1, 2005.

# CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 360 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-10-8-7.7 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.7. **(a) As used in this**
- 4 **section, "covered individual" means an individual who is covered**
- 5 **under a health care plan.**
- 6 ~~(a)~~ **(b)** As used in this section, "health care plan" means:
- 7 (1) a self-insurance program established under section 7(b) of this
- 8 chapter to provide group health coverage; or
- 9 (2) a contract entered into under section 7(c) of this chapter to
- 10 provide health services through a prepaid health care delivery plan.
- 11 ~~(b)~~ **(c)** As used in this section, "health care provider" means a:
- 12 (1) physician licensed under IC 25-22.5; or
- 13 (2) hospital licensed under IC 16-21;
- 14 that provides health care services for surgical treatment of morbid
- 15 obesity.
- 16 ~~(c)~~ **(d)** As used in this section, "morbid obesity" means:
- 17 ~~(1) a weight of at least two (2) times the ideal weight for frame,~~
- 18 ~~age, height, and gender, as specified in the 1983 Metropolitan Life~~
- 19 ~~Insurance tables;~~
- 20 ~~(2)~~ **(1)** a body mass index of at least thirty-five (35) kilograms per
- 21 meter squared, with comorbidity or coexisting medical conditions
- 22 such as hypertension, cardiopulmonary conditions, sleep apnea, or
- 23 diabetes; or

~~(3)~~ **(2)** a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index is equal to weight in kilograms divided by height in meters squared.

~~(d)~~ **(e) Except as provided in subsection (f),** the state shall provide coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and

(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

**(f) The state may not provide coverage for surgical treatment of morbid obesity for a covered individual who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:**

**(1) save the life of the covered individual; or**

**(2) restore the covered individual's ability to maintain a major life activity (as defined in IC 4-23-29-6);**

**and each physician documents in the covered individual's medical record the reason for the physician's determination.**

SECTION 2. IC 16-18-2-240.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 240.5. "Morbid obesity", for purposes of IC 16-40-3, has the meaning set forth in IC 16-40-3-1.**

SECTION 3. IC 16-40-3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 3. Reporting of Deaths or Complications From Morbid Obesity Surgeries**

**Sec. 1. As used in this chapter, "morbid obesity" means:**

**(1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or**

**(2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.**

**For purposes of this section, body mass index is equal to weight in kilograms divided by height in meters squared.**

**Sec. 2. (a) A physician who is licensed under IC 25-22.5 and who performs a surgical treatment for the treatment of morbid obesity shall:**

**(1) monitor the patient for five (5) years following the patient's surgery; and**

**(2) report:**

**(A) to; and**

**(B) in a manner prescribed by;**

**the state department any death or serious complication of the patient.**

**(b) The report required in subsection (a) must include the following information:**

**(1) The gender of the patient.**

(2) The name of the physician who performed the surgery.

(3) The location where the surgery was performed.

(4) Information concerning the death or complication and the circumstances in which the death or complication occurred.

Sec. 3. (a) The state department shall collect and maintain the information reported to the state department under section 2 of this chapter.

(b) The reports made under section 2(a)(2) of this chapter are public records and are subject to public inspection. However, the state department may not release any information contained in the reports that the state department determines may reveal the patient's identity.

Sec. 4. A physician who knowingly violates this chapter may be subject to disciplinary sanctions under IC 25-1-9 as if the physician had knowingly violated a rule adopted by the medical licensing board under IC 25-22.5-2-7.

Sec. 5. The state department shall adopt rules under IC 4-22-2 necessary to implement this chapter.

Sec. 6. This chapter expires June 30, 2010.

SECTION 4. IC 27-8-14.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "morbid obesity" means:

~~(1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender, as specified in the 1983 Metropolitan Life Insurance tables;~~

~~(2) (1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or~~

~~(3) (2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.~~

For purposes of this section, body mass index is equal to weight in kilograms divided by height in meters squared.

SECTION 5. IC 27-8-14.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) Except as provided in subsection (b),** an insurer that issues an accident and sickness insurance policy shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and

(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

**(b) An insurer that issues an accident and sickness insurance policy may not provide coverage for a surgical treatment of morbid obesity for an insured who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:**

**(1) save the life of the insured; or**

**(2) restore the insured's ability to maintain a major life activity (as defined in IC 4-23-29-6);**

**and each physician documents in the insured's medical record the**

**reason for the physician's determination.**

SECTION 6. IC 27-13-7-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) As used in this section, "health care provider" means a:

- (1) physician licensed under IC 25-22.5; or
- (2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

(b) As used in this section, "morbid obesity" means:

~~(1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables;~~

~~(2) (1) a body mass index of at least thirty-five (35) kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or~~

~~(3) (2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.~~

For purposes of this subsection, body mass index equals weight in kilograms divided by height in meters squared.

(c) **Except as provided in subsection (d)**, a health maintenance organization that provides coverage for basic health care services under a group contract shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

- (1) that has persisted for at least five (5) years; and
- (2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

**(d) A health maintenance organization that provides coverage for basic health care services may not provide coverage for surgical treatment of morbid obesity for an enrollee who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:**

- (1) save the life of the enrollee; or**
- (2) restore the enrollee's ability to maintain a major life activity (as defined in IC 4-23-29-6);**

**and each physician documents in the enrollee's medical record the reason for the physician's determination.**

SECTION 7. [EFFECTIVE JULY 1, 2005] (a) **IC 5-10-8-7.7, as amended by this act, applies to a self-insurance program or a contract with a prepaid health care delivery plan that is established, entered into, delivered, amended, or renewed after June 30, 2005.**

(b) **IC 27-8-14.1-4, as amended by this act, applies to an accident and sickness insurance policy that is issued, delivered, amended, or renewed after June 30, 2005.**

(c) **IC 27-13-7-14.5, as amended by this act, applies to a health maintenance organization contract that is entered into, delivered, amended, or renewed after June 30, 2005.**

(Reference is to SB 360 as printed March 25, 2005.)



**Conference Committee Report**  
**on**  
**Engrossed Senate Bill 360**

**S**igned by:

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Senator Miller  
Chairperson

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Representative Becker

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Senator Lewis

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Representative Brown C

**Senate Conferees**

**House Conferees**